

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

NATIONAL LABOR RELATIONS BOARD Petitioner, vs. TARLTON AND SON, INC. Respondent.	CASE NO. 17-70632 Board Case Nos. 32-CA-119054 and 32-CA-126896
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**ANSWER OF TARLTON AND SON, INC. TO CROSS-APPLICATION FOR
ENFORCEMENT OF THE NATIONAL LABOR RELATIONS BOARD**

Pursuant to the provisions of Rule 15(b)(2) of the Federal Rules of Appellate Procedure, Tarlton and Son, Inc. (hereinafter, “Tarlton”) answers the Cross-Application for Enforcement filed by the National Labor Relations Board with this Circuit on March 3, 2017 as follows:

1. Tarlton admits that the National Labor Relations Board (“Board”) issued an Order against Tarlton April 29, 2016, in Cases 32-CA-119054 and 32-CA-126896, reported at 363 NLRB No. 175.
2. Tarlton admits that the conduct underlying the alleged unfair labor practices occurred in Fresno, California.
3. Tarlton specifically denies that it engaged in any unfair labor practices within the meaning of National Labor Relations Act.
4. Tarlton affirmatively alleges that the Board’s Order fails to conform to the requirements of Section 10 of the National Labor Relations Act (29 U.S.C. Section 160), because substantial evidence does not support the Board's findings and order and, therefore, the Board abused its discretion in entering those findings and order.

5. Tarlton affirmatively alleges that the Board's Order fails to conform to the requirements of 29 U.S.C. Section 160 because the National Labor Relations Board acted arbitrarily, failed to apply the proper legal authority, departed from established precedent, or otherwise erred in applying established law to the facts at issue.

6. Tarlton affirmatively alleges that the Board's findings that Tarlton engaged in conduct violative of Section 8(a)(1) of the National Labor Relations Act (29 U.S.C. Section 158(a)(1)) are barred because the rights of the Charging Party and other affected employees to engage in collective legal activity have been waived by their Section 9(a) collective bargaining representative.

7. Tarlton affirmatively alleges that the Board's findings that Tarlton engaged in unfair labor practices are barred by the Federal Arbitration Act (9 U.S.C. ¶ 1, et seq.)

8. Wherefore, Tarlton prays that that the Board's Cross-Application for be denied.

DATED: March 10, 2017

/s/ James A. Bowles

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CERTIFICATE OF SERVICE

I electronically filed the foregoing document described as ANSWER OF TARLTON AND SON, INC. TO CROSS-APPLICATION FOR ENFORCEMENT OF THE NATIONAL LABOR RELATIONS BOARD in Case No. 17-70632 with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system.

Participants in the case who are registered users will be served by the appellate CM/ECF system.

I further certify that I have mailed the foregoing document by U.S. Mail with first class postage prepaid to the following:

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I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on March 13, 2017, at Los Angeles, California.

/s/ Josefina Perez

Josefina Perez